UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,835	09/25/2003	Daniel Alan Brokenshire	AUS920030705US1	8261

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EXAMINER
VO, LILIAN

ART UNIT	PAPER NUMBER
2195	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/670,835	BROKENSHIRE ET AL.
	Examiner	Art Unit
	LILIAN VO	2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>11/11/05, 5/16/06, 8/15/06, 9/19/06, 10/13/06, 1/4/07, 3/29/07, 5/20/07, 7/16/07, 10/2/07, 12/27/07.</u>

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

1.   Claim 1 is presented for examination. Claims 2 – 47 have been cancelled.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3.   Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4.   Claim 1 recites the limitation "the request" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

5.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned

with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6.   Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/670,838. Although the conflicting claims are not identical, they are not patentably distinct from each other because application 10/670,838 also teaches a method for using a processor as a virtual device which comprises all steps as being claimed in the present application.

This is a _provisional_ obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bono (US Pat. Application Publication 2003/0018691) in view of Wenkata Subramanian et al. (US Pat. Application Publication 2006/0047754, hereinafter Wenkata).

9.   Regarding claim 1, Bono discloses a computer-implemented method for using a

processor as virtual device, said method comprising:

loading data to a first location in a common memory in a computer system (fig. 1 and 7),

loading software code that processes the data in a second location in the common

memory (page 2 paragraph 12: queue loader routine,

fig. 1 and 7: 156);

writing an instruction block to a third location in the common memory, wherein the

instruction block includes the first and second locations (page 2 paragraph 12: queue service

routine, fig. 7);

a second processor from a plurality processors in the computer system, wherein the

plurality of processors share the common memory(fig. 1), wherein each of the processors have a

local memory (fig. 1), and wherein at least two of the processors are dislike (page 2 paragraph

29: processors may perform substantially different functions);

storing data corresponding to the request in the local memory corresponding to the

second processor (page 5 paragraph 87); and

reading by the second processor the second location from the instruction block (page 2

paragraph 12: queue service routine is executed by each processor for servicing its hard and soft

affinity queues);

copying, by the second processor, the data from the first location in the common memory

to the second processor's local memory (page 2 paragraph 12: queue service routine is executed

by each processor for servicing its hard and soft affinity queues);

copying, by the second processor, the software code from the second location in the

common memory to the second processor's local memory (page 2 paragraph 12: queue service

routine is executed by each processor for servicing its hard and soft affinity queues); and

processing the data by the second processor using the software code stored in the second

processor's local memory (page 2 paragraph 12: queue service routine which dispatch code

thread instances to the processors for execution).

Bono discloses that shared memory is used for exchanging messages or sharing data

among the processors (page 3 paragraph 33) but did not specifically disclose a processor is

processing data in response to the signal from another processor. Nevertheless, Wenkata

discloses the communication between the two processors in which one processor is received and

responded to another processor signal for data processing (page 1 paragraph 3). It would have

been obvious for one of an ordinary skill in the art at the time the invention was made to

incorporate Wenkata's teaching together with Bona as it would provide a necessary

communication between the processors in the system as desired.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to LILIAN VO whose telephone number is (571)272-3774. The

examiner can normally be reached on Thursday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lewis A. Bullock, Jr./   Lilian Vo
Supervisory Patent Examiner, Art Unit 2193   Examiner
                                                                          Art Unit 2195

lv
March 27, 2008